

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

LIFETIME INDUSTRIES, INC.,	)	
	)	
Plaintiff	)	
	)	
vs.	)	CAUSE NO. 3:13-CV-819 RLM
	)	
TRIM-LOK, INC.,	)	
	)	
Defendant	)	

OPINION AND ORDER

Lifetime Industries filed a motion for a stay pending appeal, asking the court to stay disposition of Trim-Lok's motion for attorney's fees until its appeal has been fully briefed, argued, and decided. The court denies the motion to stay for the following reasons.

The court considers four factors in determining whether to grant a stay:

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Hilton v. Braunskill, 481 U.S. 770, 776 (1987). Lifetime Industries bears the initial burden of showing that the likelihood of success on appeal is substantial and that it will suffer irreparable harm if the stay is denied. Matter of Forty-Eight Insulations, Inc., 115 F.3d 1294, 1300-01 (7th Cir. 1997); Adams v. Walker, 488 F.2d 1064, 1065 (7th Cir. 1973). If it meets that burden, the court will balance the harms and will use a "sliding scale" approach to determine whether a stay is

warranted. Matter of Forty-Eight Insulations, Inc., 115 F.3d at 1300-01. If not, no further inquiry is necessary and the motion to stay should be denied. *Id.* at 1301; Green River Bottling Co. v. Green River Corp., 997 F.2d 359, 361 (7th Cir. 1993).

Patent cases are notoriously complex, so the court can't rule out the possibility that Lifetime Industries might succeed on one or more of the arguments it proposes to raise on appeal. But the mere possibility of success on the merits isn't enough to justify a stay, see Matter of Forty-Eight Insulations, Inc., 115 F.3d at 1301; Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog, 945 F.2d 150, 153 (6th Cir. 1991), and Lifetime Industries hasn't shown anything more. The court considered and rejected its arguments in ruling on the motions to dismiss, and Lifetime Industries hasn't presented any authority that would persuade the court to reconsider its decision now. Even if it had, Lifetime Industries hasn't made any showing of irreparable harm, so an inquiry into the balance of harms isn't unnecessary. Matter of Forty-Eight Insulations, Inc., 115 F.3d at 1301; Green River Bottling Co. v. Green River Corp., 997 F.2d at 361.

For the foregoing reasons, the motion for a stay pending appeal [Doc. No. 49] is DENIED, and the plaintiff is given until **January 24, 2017** to file its response to the defendant's motion for attorney's fees [Doc. No. 44].

SO ORDERED.

ENTERED: December 31, 2016

/s/ Robert L. Miller, Jr.  
Judge  
United States District Court

